

HOUSE No. 3152

The Commonwealth of Massachusetts

PETITION OF:

Eric Turkington
Denis E. Guyer
Peter V. Kocot
Sarah K. Peake
Todd M. Smola
Carl M. Sciortino, Jr.

John W. Scibak
Christine E. Canavan
Mary E. Grant
John A. Hart, Jr.

In the Year Two Thousand and Seven.

AN ACT PROMOTING WORK CREATED BY MASSACHUSETTS ARTISTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

Section 1 of chapter 64H of the General Laws is hereby amended by inserting the following definitions:

“Massachusetts Artist” shall mean a person who makes “original and creative work” and is residing in the Commonwealth of Massachusetts. A Massachusetts Artist shall be deemed to be residing in the Commonwealth of Massachusetts if (a) domiciled in the state, or (b) is not domiciled in the state but maintains a permanent place of abode in state and is in the state for an aggregate of more than one-hundred-eighty-three (183) days of the taxable year.

“Original and Creative Work” shall be defined as a work that falls into any or all of the following categories: 1) a book or other writing; 2) a play or the performance of said play; 3) a musical composition or the performance of said composition; 4) “traditional and fine crafts”; 5) the creation of a film or the acting within said film; 6) the creation of a dance or the performance of said dance; 7) a work of “Fine Art” as defined by Chapter 104A, Section 1 of the General Laws (*Note: refer to the definition of the Nov. 8th 2006 amended

version found in Senate Bill 2461) “Original and creative work” shall not include any piece or performance created or executed for industry oriented or related production.

“Art Dealer” or “Consignee”, a person engaged in the business of selling works of “fine art” or “original and creative work”, who takes works of “fine art” or “original and creative work” on consignment in the regular course of business, other than a person exclusively engaged in the business of selling goods at public auction.

“Consignment”, a delivery of a work of “fine art” or “original and creative work” under which no title to, estate in, or right to possession of, the work of “fine art” or “original and creative work” superior to that of the consignor shall vest in the consignee, notwithstanding the consignee’s power or authority to transfer and convey to a third person all of the right, title and interest of the consignor in and to the work of fine art or “original and creative work”.

“Traditional and fine crafts” shall be defined as a work that is a handcrafted or handmade functional or non functional object that is one-of-a-kind or is of a limited production that is not mass-produced in large quantities by a factory. Traditional and fine crafts are further defined as an original work made substantially by hand, wherein the skill and technique of manipulation the material is primary to the artistic process and falls into any one or more of the following categories: jewelry, furniture, glass-based work, carving work, ceramic and clay work, wood based objects, metal based objects, Indigenous and Aboriginal art, folk art, decorative art, functional and non functional leather based work, handcrafted lamps, handmade paper based work, handmade baskets, textile-based and fiber-based work such as but not limited to handmade or handcrafted weavings, clothing, accessories, rugs, quilts, embroidery based work, knit based objects, or any or any combination of the foregoing materials.

SECTION 6

Section 6 (c) of Chapter 64 H of the General Laws is hereby amended by striking out paragraph (c) and inserting the following:

(c) (1) Casual and isolated sales by a vendor or sales of “original and creative work” by a “Massachusetts Artist” who is not regularly engaged in the business of making sales at retail; provided, however, that nothing contained in this paragraph shall be construed to be exempt any such sales of a motor vehicle or

trailer, as defined in section one of chapter ninety, or any such sales of a boat or an airplane from the tax imposed under chapter sixty-four I.

(c) (2) Sales of “original and creative work” by a “Massachusetts Artist” engaged in the business of making sales at retail. Sales of “original and creative work” created by a “Massachusetts Artist” that are under consignment to an “Art Dealer” or “Consignee” whose place of business is located within the Commonwealth of Massachusetts. Sales of “original and creative work” created by a “Massachusetts Artist” that are under consignment to a retail store, an artist cooperative or an artisan cooperative whose place of business is located within the Commonwealth of Massachusetts. Only the inter vivos sales work of Massachusetts Artists shall be exempt from sales tax under this section.

* this is the definition we are referring to that was signed into law on Nov. 8, 2006:

“Fine art”, a painting, photograph, sculpture, functional sculpture, hologram, wearable art, drawing, fiber-based work, ceramic-based work, metal work, conceptual-based art, glass-based work, an installation, a work that is created or displayed using computer, digital devices and/or new technology such as but not limited to digital prints, digital photographs, CD Roms, DVDs, cyberart, a web/internet-based art work, a performance-based art work and the results of the performance such as but not limited to film, video, DVDs, CD Roms, a sound work, an electronic-based work, a work of graphic art, including an etching, lithograph, off set print, silk screen/screen print, or work of graphic art of like nature, a work of calligraphy, an artist’s book, or a work in mixed media including collage, assemblage or any combination of the foregoing art media.